UNITED
NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/50/69
S/1995/79
26 January 1995

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fiftieth session
HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

SECURITY COUNCIL
Fiftieth year

Situation of human rights in the territory of the former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly, the Security Council and to the International Conference on the Former Yugoslavia the tenth periodic report prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, in accordance with paragraph 37 of Commission on Human Rights resolution 1994/72 of 9 March 1994 and Economic and Social Council decision 1994/262 of 22 July 1994.

95-02350 (E) 100295 150295

/...

ANNEX

Tenth periodic report on the situation of human rights in the territory of the former Yugoslavia, submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 37 of Commission resolution 1994/72 of 9 March 1994 and Economic and Social Council decision 1994/262 of 22 July 1994

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 4	4
II.	BOSNIA AND HERZEGOVINA	5 - 50	4
	A. Introductory remarks	5 - 6	4
	B. Human rights violations against civilians perpetrated by Bosnian Serb forces and de facto authorities	7 - 17	5
	C. Human rights violations committed on the territory of Bosnia and Herzegovina by forces of the so-called "Republic of Serb Krajina" and of the so-called "autonomous province of western Bosnia"	18 - 20	7
	D. The Federation	21 - 39	7
	E. Interference with humanitarian aid and assistance	40 - 44	10
	F. Conclusions and recommendations	45 - 50	11
III.	CROATIA	51 - 79	12
	A. Introductory remarks	51	12
	B. The judicial system	52 - 53	12
	C. Treatment of minorities	54 - 59	13
	D. Illegal and forced evictions	60 - 62	14
	E. The situation of aliens and refugees	63 - 65	15
	F. The development of human rights organizations	66 - 67	15
	G. Conclusions and recommendations	68 - 69	16

CONTENTS (continued)

		Paragraphs	Page
	H. The situation in the United Nations Protected Areas	70 - 76	17
	I. Conclusions and recommendations	77 - 79	18
IV.	FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)	80 - 100	19
	A. Introductory remarks	80 - 81	19
	B. Recent information	82 - 97	19
	C. Conclusions and recommendations	98 - 100	22
V.	THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA	101 - 110	23
	A. Introductory remarks	101 - 102	23
	B. Recent developments	103 - 108	23
	C. Conclusions and recommendations	109 - 110	24
VI.	PROBLEM OF DISAPPEARANCES	111 - 118	25
VII.	FIELD OPERATION	119 - 132	26
	A. Introductory remarks	119 - 122	26
	B. Bosnia and Herzegovina	123 - 126	27
	C. Croatia	127 - 128	28
	D. The former Yugoslav Republic of Macedonia	129	28
	E. General	130 - 132	28
Appendix.	List of all periodic reports on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights		30

I. INTRODUCTION

1. In accordance with paragraph 37 of Commission on Human Rights resolution 1994/72 of 9 March 1994, approved by Economic and Social Council decision 1994/262 of 22 July 1994, the present report follows on the periodic report submitted by the Special Rapporteur tc the General Assembly at its forty-ninth session (A/49/641-S/1994/1252, annex), and should be read in conjunction with it.

2. In implementing his mandate the Special Rapporteur has obtained extensive cooperation from the Governments of the Republic of Bosnia and Herzegovina, the Republic of Croatia and the former Yugoslav Republic of Macedonia. The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) continues to refuse to permit the opening of a field office of the Centre for Human Rights in Belgrade or the conducting of missions within the framework of the mandate of the Special Rapporteur. Nevertheless, some channels of contact with the Federal authorities have been established and the Special Rapporteur hopes that more fruitful dialogue may develop.

3. The Special Rapporteur once again reiterates his conviction that a proper execution of his mandate would not be possible without the assistance of the field operation established by the Centre for Human Rights. The present report describes the scope and character of that operation in a manner which updates annex I to the sixth periodic report (E/CN.4/1994/110).

4. The Special Rapporteur once again expresses his gratitude to the various bodies which assist him and his field staff in carrying out his mandate, including the United Nations Protection Force (UNPROFOR), the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), the European Union Monitoring Mission, missions of the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe, and other intergovernmental and non-governmental organizations. He is particularly grateful to a number of local non-governmental organizations for their commitment and willingness to provide him with a large amount of credible information about the human rights situation in their countries.

II. BOSNIA AND HERZEGOVINA

A. Introductory remarks

5. This chapter serves to update the report of the Special Rapporteur to the General Assembly and the Security Council of 4 November 1994 (A/49/641-S/1994/1252, annex). The information presented is primarily based on the ongoing work of the field staff assigned to the Special Rapporteur and based in Sarajevo and Zagreb. Among other valuable sources of information have been a range of reliable international and other organizations and individuals.

6. The Special Rapporteur notes the Cessation of Hostility Agreements signed in late December. The Agreements make specific reference to the protection of

human rights and the importance of access for international human rights monitors throughout the territory. The Special Rapporteur will report to Member States on the implementation of those provisions.

B. Human rights violations against civilians perpetrated by Bosnian Serb forces and de facto authorities

1. In situ terrorization and displacement

7. In his 4 November 1994 report, the Special Rapporteur drew attention to the ongoing reign of terror in areas under the control of de facto Bosnian Serb authorities, a/ in particular in and around such towns as Banja Luka, Prijedor and Bijeljina. The report detailed the components of in situ violation of human rights and the directly and indirectly forced displacements which followed therefrom (see A/49/641-S/1994/1252, annex, paras. 11-24).

8. Reports continue to be received of widespread violations of human rights in areas controlled by the Bosnian Serb de facto authorities including ongoing displacement of Muslims, Bosnian Croats and Roma. In Banja Luka in early November a reliable source described how members of a Muslim family were attacked by civilians and how, when one of them complained to the police, he was detained and sent to the front line for forced labour. November and December also saw further displacement of non-Serbs from Banja Luka, as well as from Bijeljina and, especially, Doboj. Reports indicate that displacement was accompanied by the range of human rights violations described in the 4 November 1994 report. In early December it was reported that numbers of Bosnian Croats in Banja Luka were being rounded up for forced front-line labour.

9. It is reported that on 25 December, some 30 Bosnian Croat men waiting for services to begin at the church at Barlovci, near Banja Luka, were arrested by Serb military police and taken to army headquarters, where they were badly beaten. Twenty-three of these individuals are said to have required medical treatment, which was provided only upon receipt of payment.

10. The Special Rapporteur notes the reported imposition and execution of the death penalty against an alleged army deserter in early November 1994 in Drvar, western Bosnia, following a trial which is said to have violated standards of due process of law and to which there was no effective appeal.

2. Military attacks on civilians and other non-combatants

11. In his 4 November 1994 report, the Special Rapporteur drew attention to the escalating rate of attacks on civilians by Bosnian Serb forces, resulting in many fatalities and injuries as well as massive damage to civilian property (see A/49/641-S/1994/1252, annex, paras. 25-34).

12. The intense attack concentrated on Bihac town is being perpetrated primarily by Bosnian Serb forces, with substantial tactical (including air) support provided by the forces of the so-called "Republic of Serb Krajina". The assault on Bihac town is being conducted with no obvious concern for the safety

of civilians. The town has been pummelled by shells and other missiles, causing considerable loss of life and injuries. During late November, the battle came to a halt within a few hundred metres of the town's only hospital and some 2,000 patients were endangered. On 13 December a mortar impacted near the Croatian Defence Council (HVO) Brigade headquarters in the town, killing a four-year-old child and injuring two civilians. Shelling, at the rate of two to three attacks each day, has, since then, continued to claim the lives of civilians in the town centre. Well-attested reports indicate that the Bosnian Serb troops were destroying villages which they encountered in the course of their progress into the Bihac pocket.

13. In November and December 1994, there was an intensification of attacks on Sarajevo. In one attack on 8 November 1994 three children and one adult civilian woman were killed by sniper fire and mortars. At least five other people were seriously wounded. On 14 November 1994, the Holiday Inn hotel was hit by two grenades fired from Bosnian Serb army positions, but no one was injured. Other targets have included the tram service, which had to be suspended. When, on 7 December, attempts were made to restart the tram service, sniper attacks from positions held by Bosnian Serb forces targeted lines of people at a tram stop, injuring a 16-year-old girl and a 70-year-old man. Sniper and missile attacks continued to be targeted on an almost daily basis against the city centre, near the presidency building.

14. Other "safe areas" under attack include Gorazde and Srebrenica, and both locations have suffered civilian fatalities from snipers, missiles and other weapons.

15. There has been a renewal of attacks by Bosnian Serb forces on Mostar. A number of attacks concentrated on roads outside the city, endangering the lives of the local population. Also, there were attacks targeted at civilians inside the demilitarized zone, including one on 12 November which struck the Roman Catholic Cathedral and killed a child.

16. Other locations with a high concentration of civilians which have been attacked in recent weeks include Bugojno, Visoko, Travnik and Tuzla, and there has been a daily loss of lives of women, children and other non-combatants. In just one day, 21 November 1994, in Tuzla, 5 people were killed and 19 wounded.

17. Bosnian Serb forces continued to attack UNPROFOR personnel at locations such as Sarajevo. Also, during November, at various locations in areas under the de facto control of Bosnian Serb forces, such as near Banja Luka and outside Sarajevo, restrictions were placed on the freedom of movement of UNPROFOR personnel, effectively rendering them prisoners. From mid-December, some slight easing of the restrictions could be observed. In the town of Bihac, members of the Bangladeshi UNPROFOR battalion and a small number of international and local staff of humanitarian organizations were exposed to acute danger during attacks by the besieging forces.

C. Human rights violations committed on the territory of Bosnia and Herzegovina by forces of the so-called "Republic of Serb Krajina" and of the so-called "autonomous province of western Bosnia"

18. Since October 1994 "Republic of Serb Krajina" forces have been engaged in the fighting in the Bihac pocket, along with Bosnian Serb forces and troops of the "autonomous province of western Bosnia" - led by Mr. Fikret Abdic. The "Republic of Serb Krajina" forces have frequently targeted civilian areas with a range of missiles, and the towns of Velika Kladusa and Cazin have suffered heavily. "Republic of Serb Krajina" forces have also been responsible for air attacks which have resulted in civilian casualties. In one air attack on 18 November 1994, both cluster and napalm bombs were employed in flagrant violation of international humanitarian law. Fortunately, the napalm bomb did not explode. UNPROFOR personnel have been deliberately targeted in attacks directed from "Republic of Serb Krajina" positions, notably on 12 December 1994, when five Bangladeshi soldiers were badly injured when their vehicle was fired on from "Republic of Serb Krajina" positions. One of the soldiers subsequently died from his injuries.

19. It is alleged that advancing "Republic of Serb Krajina" and "autonomous province of western Bosnia" troops have been responsible for the destruction of homes and the detention, torture and killing of civilians. Reliable sources report that "Republic of Serb Krajina" forces, aided by "autonomous province of western Bosnia" forces, are maintaining a detention camp at Dubrava, near Velika Kladusa. The camp is said to house up to 400 Muslim men, only some of whom may have been engaged in combat. Witnesses report having seen prisoners being forced to undertake mine clearance operations near the camp, and a number of allegations of torture and summary execution have been made. The prisoners are housed in badly war-damaged buildings originally intended for fowl. There are allegations of the possible existence of other detention facilities near Velika Kladusa, including one housing Muslim women who are subjected to regular sexual abuse. It has not yet been possible to verify such allegations.

20. Human rights violations committed by forces and authorities of the "autonomous province of western Bosnia" during the months prior to their displacement into United Nations Protected Area (UNPA) Sector North in August 1994 are described in paragraphs 55 and 56 of the 4 November 1994 report, and in the eighth periodic report of the Special Rapporteur (E/CN.4/1995/10).

D. The Federation

21. In his 4 November 1994 report (paras. 35-37), the Special Rapporteur noted the importance for the protection of human rights of the termination of the conflict between the government forces and the HVO, and the subsequent establishment of the Federation of Bosnia and Herzegovina. He described the elaborate human rights provisions of the Federation Constitution and the extent to which they would require further elaboration, clarification and implementation. One important provision is that providing for the appointment of three ombudsmen and reports that they have been appointed are encouraging. Another hopeful development is the increasing scale of activity of

non-governmental human rights groups in Sarajevo, Tuzla and Zenica. The importance they are attaching to education in and dissemination of information about human rights law is to be welcomed.

22. In his 4 November 1994 report (paras. 39-43), the Special Rapporteur detailed the range of agreements which have been put in place to allow limited freedom of movement, and noted the many obstructions which restricted movement and blocked the return of displaced people. Despite agreements in mid-November allowing phased return of all displaced people, these restrictions continue, and throughout the Federation there has been a failure to implement return on a significant level.

23. The Government frequently prosecutes as draft evaders Bosnian Serbs who attempt to cross confrontation lines for purposes of temporary or permanent family reunification, and harsh sentences are imposed of from one to three years' imprisonment. This practice gives cause for concern.

24. Reliable reports have been received of serious violations of due process of law and of torture of certain categories of detainees held by government forces or authorities. It is for instance reliably reported that certain arrestees, especially of Bosnian Serb origin, are held incommunicado for more than the 72-hour period permitted by the laws of Bosnia and Herzegovina. The Special Rapporteur is aware of two cases of such detention for two and four months respectively. The practice is most acute in military disciplinary cases where even the place of detention is often not disclosed by the authorities. A number of instances of physical abuse, including torture, have been reported to have occurred during the periods of incommunicado detention.

25. In contrast to conditions of pre-trial detention, conditions for those convicted prisoners held in non-military prisons appear at the present time to be reasonable, bearing in mind the deprivations suffered by all members of society. The Special Rapporteur has no information concerning conditions in military detention centres.

26. Increasing economic activity within the Federation area has drawn attention to the need for labour to be organized in a free and effective manner. Until now there has only been a form of official trade union movement closely linked to the Government, and significant progress in changing this model of operation has been blocked by the conditions of war. It must also be acknowledged that the official trade union movement has played a large role in attracting international humanitarian aid and in alerting world attention to the acts of the war. However, it is essential that legislation now be put in place for a free trade union movement to emerge in tandem with future restarting of the economy, and that emerging independent trade and professional organizations receive all possible support. The establishment, on 10 December 1994, of the Independent Union of Professional Journalists is to be welcomed.

27. In his 4 November 1994 report the Special Rapporteur expressed concern regarding treatment of Bosnian Serbs resident in Zenica (para. 45). In recent weeks his field staff have conducted a mission to the city and report that the situation has stabilized and that there is much improved respect for the human rights of non-Muslims.

28. The Special Rapporteur drew attention to conditions in Bugojno in his 4 November 1994 report (paras. 48 and 49). Bosnian Croats resident in that town continue to feel great insecurity and many are anxious to go elsewhere. An ongoing problem is the manner in which the houses of Bosnian Croats who are displaced from Bugojno are allocated to Muslims displaced into the town. Concerning the unwillingness to allow the return of displaced Bosnian Croats or to permit the reopening of a Croatian cultural centre, the situation remains unchanged since the 4 November 1994 report, in spite of promises given to the Special Rapporteur by the local authorities during his last mission.

29. Local authorities in Vares have, since mid-October, refused to honour the existing freedom of movement agreements and have prevented Bosnian Croats from travelling between Dastansko and Kiseljak (other than by HVO military transport) and between Dastansko and Vares. The children of Bosnian Croats who have recently returned to Vares are not permitted to attend school.

30. Bosnian Croat local authorities are blocking the return of displaced Muslims to locations such as Stolac, Caplina, Livno and Prozor.

31. In his 4 November 1994 report, the Special Rapporteur examined in considerable detail the situation of human rights in the Bihac pocket, in particular the behaviour of the local authorities loyal to the Republic of Bosnia and Herzegovina, and also the human rights record of the "autonomous province of western Bosnia" regime (paras. 52-56). The Special Rapporteur notes that a person has since been arrested by the government authorities for the 5 October 1994 murder of a Bosnian Serb described in the 4 November 1994 report. However, while it would appear that the judicial system has functioned reasonably well, certain of the judgements are not being properly enforced. For instance, it is disturbing that two people convicted of killing two Bosnian Serb women early in 1994 were, as of early November, being allowed by the prison authorities to leave prison on a regular basis.

32. Allegations have been received from Konjic that both Bosnian Serbs and Bosnian Croats have been evicted from their homes and physically assaulted by members of the army of Bosnia and Herzegovina. It has also been alleged that Bosnian Croats of that town are forced by the army of Bosnia and Herzegovina to carry out work close to confrontation lines.

33. In his 4 November 1994 report, the Special Rapporteur described the human rights situation in Mostar and highlighted the plight of Muslims resident in that city (paras. 58-60). He also discussed the human rights implications for Mostar of the establishment of the European Union administration (paras. 75-78). Despite the decline in illegal evictions in west Mostar and the drop in armed violence, the situation in Mostar continues to give serious cause for concern. The blame falls to a very large extent on local Bosnian Croat authorities in the western part of the city who refuse to countenance cooperation with the authorities in the eastern part of the city.

34. Bosnian Croat police in the western part of the city persist in not investigating crimes perpetrated against Muslims, and they refuse to participate in joint police patrols with east Mostar police.

35. Since the 4 November 1994 report, there has been no substantial improvement in the situation pertaining to freedom of movement within the city and only a very small number of displaced Muslims have returned to the western part of the city. In recent months the issue of return has been complicated by the arrival in the area of people who had been externally displaced. In many cases these people do not qualify for humanitarian assistance and they encounter difficulties in finding accommodation.

36. The European Union administration continues to play an essential role in attempting to broker human rights improvements and in stimulating economic recovery.

37. In recent weeks, at Posusje, a 55-year-old Muslim man was severely beaten by members of an HVO contingent which was operating a checkpoint. The Special Rapporteur is inquiring into allegations from Jasenice (near Caplina) of physical assaults on three Muslim women and of failure by the police to undertake investigations.

38. The HVO military forces, acting in tandem with the army of Bosnia and Herzegovina, took the town of Kupres from Bosnian Serb forces in early November 1994. It is reported that most local Bosnian Serb civilians fled the area at that time and that others were detained by the HVO. It is also reported by certain sources that the troops engaged in serious violations of the human rights of captured Bosnian Serb soldiers, including summary executions. It has not been possible for the Special Rapporteur to investigate or evaluate such reports.

39. In November and December 1994, the forces loyal to the Government engaged in military actions which seriously endangered the lives of civilians. In Sarajevo government troops engaged in sniping actions and artillery attacks, often prompting retaliatory action by Bosnian Serb forces directed at or close to sensitive civilian targets. There have been incidents of attacks by government forces on UNPROFOR personnel, such as on 15 December 1994 when an UNPROFOR helicopter was targeted with small arms fire. Defenders of Bihac town have taken up attack positions close to UNPROFOR and civilian centres and have thus heightened the danger for non-combatants.

E. Interference with humanitarian aid and assistance

40. In his 4 November 1994 report, the Special Rapporteur described the persistent interferences with and theft of humanitarian aid supplies. He drew particular attention to the actions of Bosnian Serb forces and noted the practices of Bosnian Croat and other local authorities as well as of the central Government in Sarajevo. Also described were the Bosnian Serb interferences with emergency medical evacuations (paras. 65-67).

41. The blockade on access to the Bihac pocket for humanitarian supplies, imposed by the authorities of the so-called "Republic of Serb Krajina", and described elsewhere, has seriously endangered the lives of inhabitants and of international personnel, including the Bangladeshi UNPROFOR battalion. By late November food stocks and reserve supplies had been depleted and international

observers reported that the population was in imminent danger of starvation. Another grave problem was the lack of medical supplies and facilities. By 28 November, the hospital in Bihac town, with a normal capacity of 700 beds, had 2,000 patients, and was bereft of basic supplies such as dressings and anaesthetics. Bihac town no longer had running water. Throughout the pocket a range of humanitarian projects, such as infant immunization programmes, have had to be abandoned due to the conflict and the blockages.

42. Bosnian Serb forces continue to interfere sporadically with those humanitarian efforts concentrating on "safe areas" in eastern Bosnia. Passage for items of shelter, food, clothing and shoes is often denied. During September and October, only 50 per cent of the UNHCR food delivery target for the "safe areas" was met. Fuel supplies, essential for distribution of aid within the target areas and for heating, are also regularly blocked. During November, UNHCR was only able to accomplish two thirds of its planned food deliveries to Gorazde, Srebrenica and Zepa. That organization has been told by Bosnian Serb authorities that aid access would continue to be interfered with unless quantities of aid beyond those assessed by UNHCR to be necessary are supplied to areas under Bosnian Serb control. Early in November, two Sarajevo-based doctors were kidnapped by Bosnian Serb forces while on their way to Gorazde. The doctors were subsequently released as part of a prisoner exchange. Medical evacuations from Gorazde also continue to suffer from delays imposed by Bosnian Serb authorities.

43. During November the situation deteriorated in Sarajevo, with the blockage by Bosnian Serb forces of much commercial traffic into the city and the consequent increased dependence of the people on humanitarian aid. Delivery of aid supplies is hampered by various Bosnian Serb restrictions and blockages. Attacks on aid convoys and at the airport (resulting in its frequent closure) also greatly impede delivery efforts. Bosnian Serbs cut the gas supply into the city in late November, an action which, as in the past, led government forces to interfere with gas supplies into areas held by Bosnian Serb forces. Elsewhere, such as in Ozren-Vozuca, Srobran, Teslic and Doboj, heavy fighting has seriously impeded aid deliveries.

44. There continue to be persistent reports of interference by Bosnian Croat local authorities with humanitarian aid deliveries in areas under their effective control, in particular through the insistence on taxing the convoys.

F. Conclusions and recommendations

45. In his 4 November 1994 report (paras. 79-86), the Special Rapporteur concluded, inter alia, that Bosnian Serb de facto authorities continued to be responsible for large-scale violations of human rights and, both directly and indirectly, for displacement of people from areas under their control, for systematic military attacks on civilians in the "safe areas" and elsewhere, and for grave disruption of humanitarian aid and medical evacuation programmes. The Special Rapporteur also concluded that certain violations of human rights were perpetrated by governmental authorities and Bosnian Croat local authorities. He welcomed the establishment of the Federation and the various reconstruction and reconciliation initiatives of the United Nations and the European Union.

46. Among the Special Rapporteur's recommendations (paras. 87-93) was that all peace proposals entirely respect the human rights of all peoples, including those who have been displaced, and that the International Criminal Tribunal for the former Yugoslavia proceed swiftly with its task. With regard to the Federation, he called for full restoration of freedom of movement, enabling return of displaced people and for generous international support. He called upon all local and international parties to ensure delivery of adequate humanitarian aid during the winter.

47. The Special Rapporteur reiterates the conclusions and recommendations contained in his 4 November 1994 report. To these he adds the following.

48. There has been an escalation in the military targeting of civilians by Bosnian Serb forces, resulting in daily loss of life and injury. Attacks are in the form of missiles and other such projectiles and by sniper attack. The Special Rapporteur condemns these practices, calls for an immediate cessation and reminds perpetrators of their culpability under international law.

49. Intransigence shown by Bosnian Croat local authorities in the Mostar region is hampering the re-establishment of civil society, and the Special Rapporteur calls upon these authorities to abide by the spirit and terms of the Federation, its Constitution and the associated agreements. In particular they should cooperate closely with the European Union administration.

50. Recent months have seen severe difficulties in the delivery of humanitarian aid to areas throughout Bosnia and Herzegovina. The principal problems have been caused by actions of the Bosnian Serb de facto authorities, and also by Bosnian Croat local authorities. The Special Rapporteur reminds all those who interfere with humanitarian aid deliveries that they are in violation of fundamental human rights of those who rely on such aid for survival.

III. CROATIA

A. Introductory remarks

51. The following is an updating of the Croatia component of the Special Rapporteur's 4 November 1994 report. The primary basis for the present report is information gathered by the field staff.

B. The judicial system

52. In his 4 November 1994 report, the Special Rapporteur raised a number of concerns regarding the lack of progress in criminal proceedings against members of the armed forces and the police for serious crimes, allegedly including murder and summary executions committed in 1991 and 1992. Since the completion of the previous report, the Special Rapporteur has received information of more instances of the judicial system failing to take effective measures to identify and punish those responsible for crimes and to provide families and relatives of Serbian victims with proper legal responses to the death or disappearance of their relatives. The information received refers to events which occurred in

Gospic in mid-October 1991, when, on successive nights, a first group of 30 persons and subsequently between 100 and 200 persons of Serbian origin were allegedly taken from their homes by Croatian army soldiers. The remains of the first group were later found incinerated in an area of "no-man's land". The others were allegedly killed and thrown in the "Katina Jama" cave. Another case refers to seven Serbs who were living in Karlobag until October 1991 when they were taken away by a local policeman and three other masked men. The group of seven were never seen again but the bodies of three of them were later found in the Velebit mountains. In all these cases proceedings have been initiated against individuals associated with the events. However, such proceedings have not been properly pursued even though there appear to be sufficient grounds for criminal prosecution. Recently, the lawyer of the relatives of some of the victims had his house vandalized after he made reference to some aspects of the case in the course of a television programme.

53. In his 4 November 1994 report (para. 100), the Special Rapporteur welcomed the information on the imminent establishment of the Provisional Court for Human Rights. He has been informed, however, that the Court will not be created if Croatia's request for admission to the Council of Europe is accepted. The Special Rapporteur is concerned that if the Court were not established, the individuals who suffered human rights violations prior to Croatia's accession to the Council and, by extension, to the European Convention on Human Rights, would not have adequate legal remedies.

C. Treatment of minorities

54. In his 4 November 1994 report (paras. 102 and 103), the Special Rapporteur expressed his concern at the treatment of Croatian nationals of Serbian origin. A worrying trend is the continuous emigration of members of the Serb community.

55. In addition to the facts presented there, the Special Rapporteur wishes to refer to the situation in Gorski Kotar. About 3,500 members of the total population living in this region are of Serbian origin. In many municipalities persons of Serbian origin constitute the majority of the population. The particular geographical situation of Gorski Kotar and the agreement on demilitarization concluded between the Croatian authorities and representatives of several municipalities of the area in July 1992 has placed this community in a special situation. On the basis of this agreement, the region was spared from the armed conflict, and channels of communication between local Serbs and the Government have remained open. The field staff of the Centre for Human Rights undertook a mission at the end of September 1994 to the area in order to assess the situation.

56. During the mission some of the local Croatian Serbs manifested feelings of insecurity arising from a lack of confidence in the long-term commitment of the Croatian authorities to respect their rights as a minority group. The statements indicating collective responsibility made by public figures through several media channels, some of which have been detailed in the Special Rapporteur's recent report on the media (E/CN.4/1995/54), have aggravated these feelings. However, other groups of Croat citizens of Serbian origin who also

claim to represent the views of the Serb community in Gorski Kotar have expressed their satisfaction with the government authorities.

57. Another complaint received refers to the essential right to education and preservation of culture enshrined in the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia. Indeed, to date there have been no special programmes on Serbian culture in the schools of Gorski Kotar, even in areas where Serbian children represent the majority of the students.

58. The Special Rapporteur was informed by the representatives of the local community that the allegations that Croatian Serbs had been mobilized for military service were not well founded. Many draft-age men who have already complied with their military obligations had been called to register, but had not been called for additional military duties.

59. The Special Rapporteur notes that the situation of the Serbian population in Gorski Kotar does not give reason for serious concern. He intends, therefore, to continue to assess the more pressing situations in other areas.

D. Illegal and forced evictions

60. In his 4 November 1994 report (para. 111), the Special Rapporteur referred to a letter sent to the Government of Croatia in which a number of issues relating to illegal evictions were raised. On 22 November 1994 the Special Rapporteur received a reply from the Croatian Ministry of Foreign Affairs containing information on two rulings of the Constitutional Court of the Republic of Croatia of 7 July 1993 and 30 March 1994. Both decisions confirmed the constitutionality and legality of the Decree on the Prohibition of Free Disposal of Real Estate in the Territory of the Republic of Croatia and other related decrees, b/ of 24 July 1991 and 2 October 1991. The letter referred also to the decision of the Constitutional Court of the Republic of Croatia to review the constitutionality and extent of applicability of article 94 of the 1985 Housing Law, which had provided the basis for forcible evictions without a court decision. The Special Rapporteur welcomes this decision which already has resulted in requests being granted for the temporary suspension of evictions.

61. On 2 and 3 November, a workshop on the subject of evictions was organized by the Croatian Helsinki Committee. It was attended by relevant Croatian authorities, non-governmental organizations and many of the affected individuals. Thus, it offered a forum for open discussions between the parties concerned. Soon after, the administrative organs decided to stop the evictions based on the Regulation of 24 July 1991 (Narodne Novine, No. 36, 24 July 1991, p. 983), until the Parliament would have an opportunity to discuss the issue.

62. Notwithstanding this development, it has been reported that a family in Split was evicted on 18 November by a person in a Croatian army uniform. No measures have been taken to reverse the effect of this act of force by returning the tenants to their apartment.

E. The situation of aliens and refugees

63. In his 4 November 1994 report, the Special Rapporteur reiterated his concern that article 30 of the Croatian Law on Citizenship has had the effect of excluding many long-term residents of Croatia who did not enjoy Croatian republican citizenship prior to Croatia's independence. In a previous report (E/CN.4/1994/47), the Special Rapporteur had expressed equal concern at the restrictive and arbitrary manner in which the alternative means to obtain Croatian citizenship had been applied. Information recently brought to the attention of the Special Rapporteur reinforces these concerns, which are still current and valid. For example, many Croatian local authorities have requested that individuals collect their citizenship certificate (Domovnica) personally and do not allow legal representation in this matter. Those persons who, on the basis of past experience, fear serious violations of their human rights if they return to their former places of residence to collect this important document are reluctant to do so, especially if, for example, they had been evicted from or forced to leave their homes.

64. The continuing and worsening conflict in Bosnia and Herzegovina described in the previous section of the present report has had a direct impact on the number of persons in need of international protection. In the 4 November 1994 report (paras. 116-119), the Special Rapporteur made reference to the outcome of the process of registration of refugees and displaced persons. From this exercise it has become clear that in spite of the assistance of the international community Croatia has borne a great part of the heavy burden imposed by large numbers of persons in need of emergency assistance. Nevertheless, the establishment of new requirements and procedures even for those in transit to a third country or eligible for Croatian nationality gives rise to concern. Most of these persons have been compelled to spend long periods of time in UNPA Sector West while waiting for their entry visas, adding to their stress and anxiety.

65. The Croatian Government showed reluctance to assist the externally displaced persons from the Bihac enclave stranded in UNPA Sector North. Some of these individuals, particularly draft-age men who have refused to participate in the renewed hostilities in the Bihac pocket, are in great need of international protection. It has been reported that several draft-age men have been arrested by the Slovenian police after managing to cross the Slovenian border. Apparently, some of them have been deported to Croatia and have remained in detention for illegal entry into the country. The Special Rapporteur would like to stress the acute need of some of these persons to be admitted and registered as refugees.

F. The development of human rights organizations

66. The concept of a "non-governmental organization" is relatively new in the Republic of Croatia. In the former Yugoslavia such entities did not exist. During the last two years there has been a proliferation of associations and non-governmental organizations working to raise awareness among the population of human rights issues. Through their activities, these organizations have called upon the Government to address, inter alia, issues affecting minority and

vulnerable groups and have continuously stressed the need for tolerance as a condition for a durable peace.

67. The existing legal framework has permitted a relatively easy procedure for the establishment and registration of "associations of citizens". The activities of these organizations, however, are hindered by financial constraints and by threats to the security of their members, inter alia, from certain outlets of the media closely associated with the Government.

G. Conclusions and recommendations

68. In his 4 November 1994 report, the Special Rapporteur, inter alia, recommended:

(a) That in spite of the considerable improvement in the area of human rights there were a number of human rights abuses and patterns of discriminatory treatment of minority groups by the Croatian authorities that still gave rise to concern;

(b) That all necessary measures be taken to strengthen the independence of the judiciary;

(c) That all evictions be suspended until a general solution was found in cooperation with all interested parties;

(d) That the international community be reminded of the prevalent need for humanitarian assistance for refugees and displaced persons in Croatia;

(e) That Croatia grant access to all bona fide refugees from Bosnia and Herzegovina in accordance with international law.

69. Further to these conclusions and recommendations the Special Rapporteur would like to add:

(a) That the authorities should ensure that the announced measures taken in relation to the suspension of evictions be fully implemented;

(b) That the Croatian local authorities should refrain from introducing additional obstacles for those requesting Croatian citizenship;

(c) That those in acute need of international protection should be admitted and registered as refugees;

(d) That the burgeoning network of human rights advocacy NGOs should be supported through international financial or technical assistance.

H. The situation in the United Nations Protected Areas

70. In his 4 November 1994 report (paras. 133-161), the Special Rapporteur took particular note of the ongoing harassment and violence directed mainly against members of the minority groups remaining in UNPAs. Some serious irregularities in the work of the local militia forces and the judiciary were also reported. Recent information indicates that with regard to respect for basic human rights, the situation in UNPAs remains more or less unchanged.

71. The Special Rapporteur is deeply concerned for the civilian population in UNPAs, who once again have to face the cold under increasingly difficult circumstances. In the most war-affected areas many people live in badly damaged buildings, where the heating facilities are poor or non-existent. The relief agencies also report a serious lack of proper winter clothing in most parts of UNPAs. As during previous winters, a shortage of fuel is expected to be the most pressing problem. From November on, when increased tension and military activity made transport into the sectors extremely difficult, UNHCR was not able to supply schools and hospitals with adequate amounts of heating fuel. Although no widespread shortage of food is foreseen, distribution, processing and transport will be negatively affected by the lack of fuel. Therefore, with the onset of winter there is a risk of hunger among the most vulnerable groups, especially among refugees, displaced persons and elderly people. It should be noted that a considerable portion of the population in UNPAs depend on outside humanitarian aid for food.

72. During the last two months the de facto authorities of the so-called "Republic of Serb Krajina" have shown an unacceptable disregard for basic humanitarian principles and of the work of the humanitarian organizations active in the UNPAs and in the Bihac enclave. As a result the international agencies have found it increasingly difficult, and at times impossible, to carry out their tasks. Cases of direct intimidation and harassment of aid workers and UNPROFOR personnel by the "Republic of Serb Krajina" military have not been uncommon, and most relief agencies have found themselves obliged to withdraw some of their staff. Others had to take refuge in the local UNPROFOR bases.

73. The Special Rapporteur finds it particularly unacceptable that for months the aid agencies have been prevented by the "Republic of Serb Krajina" de facto authorities from delivering badly needed supplies to the 180,000 civilians in the war-torn Bihac enclave. The enclave also hosts 65,000 displaced persons who depend totally on these deliveries for their subsistence. Similarly, owing to security risks and "Republic of Serb Krajina" obstruction, UNHCR convoys to the refugee camps in Batnoga and Turanj were suspended on 21 November. Since then only sporadic deliveries have reached the approximately 30,000 refugees who were in the camps at the time.

74. It has come to the Special Rapporteur's knowledge that an estimated 5,000-6,000 male refugees, in clear violation of international law, had been mobilized in the Batnoga and Turanj camps by the "Republic of Serb Krajina" to join the forces loyal to the "autonomous province of western Bosnia" in the fight against the troops of the Government of Bosnia and Herzegovina in the Bihac pocket. Reportedly, many of the refugees were coerced or forced to take up arms against their will. Despite strong protests from UNHCR and ICRC the practice continued.

Those who expressed an intention to leave the camps were beaten and intimidated or, allegedly, summarily executed. It was further reported that "Republic of Serb Krajina" artillery positions had been set up close to the Batnoga camp, thus exposing the refugee population to great risk.

75. It is also with concern that the Special Rapporteur has taken note of the arrest on 4 December of three Italian journalists, Mr. Federico Bugno, Ms. Lucia Annunziata and Mr. Guido Picchio, who were detained for 13 hours by "Republic of Serb Krajina" forces near Turanj. On 5 December they were reportedly released, but without their identity cards and car, which had been confiscated by the "Republic of Serb Krajina" authorities. Moreover, on 5 December two foreign journalists, Mr. Ron Jacques and Mr. Luc Delahaye, were arrested by the "Republic of Serb Krajina" de facto authorities near Maljevac in Sector North on charges of espionage. It appears that the two were taken to a "Republic of Serb Krajina" military camp for interrogation, where they were severely beaten and intimidated by members of the "Republic of Serb Krajina" forces. On 7 December, the militia released the journalists after having confiscated their identity cards, equipment, money and car.

76. The Special Rapporteur has taken note of the economic agreement reached on 2 December 1994 between the Government of Croatia and the "Republic of Serb Krajina" authorities. The agreement, which is a natural follow-up of the peace settlement of 29 March 1994, aims at restoring water supply systems and electricity transmission lines; it further provides for the reopening of the highway between Zagreb and Belgrade. When implemented the agreement could also bring new hope to the people suffering from an ever-worsening humanitarian situation in UNPAs.

I. Conclusions and recommendations

77. The Special Rapporteur reiterates the conclusions and recommendations contained in his 4 November 1994 report, in which, inter alia, he called upon the local authorities to ensure the protection of the most vulnerable members of their communities. With the onset of the winter the need to care for children, women and the elderly will become even more urgent.

78. The Special Rapporteur wishes to emphasize that the obstruction of the delivery of humanitarian aid into the Bihac enclave and the refugee camps in Batnoga and Turanj constituted a flagrant violation of fundamental humanitarian principles. He calls upon the leadership of the "Republic of Serb Krajina" to stop all interference with the work of relief agencies active in the region, and to allow full freedom of movement for United Nations and other convoys.

79. It is further with great concern that the Special Rapporteur has followed the military activities of "Republic of Serb Krajina" forces in the Bihac enclave. It is clear that by resorting to inhumane practices and indiscriminate methods of warfare, the forces of the "Republic of Serb Krajina" have acted in contravention of some of the most basic provisions of international humanitarian law.

IV. FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

A. Introductory remarks

80. In his 4 November 1994 report, the Special Rapporteur presented his findings concerning the human rights situation in the Federal Republic of Yugoslavia (Serbia and Montenegro) prior to that date (paras. 162-203). The following is an updating of that report based on information received by the Special Rapporteur in November and December 1994.

81. In his 4 November 1994 report, the Special Rapporteur pointed to the following problems in regard to the human rights situation in the Federal Republic of Yugoslavia (Serbia and Montenegro): decline of the rule of law and continuing violence (paras. 168-170), cases of discrimination on ethnic and political grounds (paras. 171-174), cases of discriminatory treatment of members of independent trade unions (para. 176) and lack of clear regulations governing citizenship (para. 177). The Special Rapporteur also described the situation in Kosovo which had deteriorated owing to a drastic increase in the number of violent house searches, raids and arbitrary arrests by the law enforcement authorities, and undue delays and serious irregularities in connection with court proceedings against ethnic Albanians (paras. 182-184). Another cause for concern arose from the extremely difficult circumstances under which schools and other educational institutions work in Kosovo (para. 185). The Special Rapporteur reported that in Vojvodina cases of discriminatory treatment had allegedly occurred (para. 186). He also pointed out that a new escalation of violence and harassment directed mainly against members of the Muslim community took place in Sandzak, especially in the regions of the border with Bosnia and Herzegovina. There were reports that police used unjustifiable force and that other human rights violations were committed by law enforcement institutions (paras. 188-196).

B. Recent information

82. The Special Rapporteur has received information about cases related to ethnic discrimination. According to local sources one can observe an increasing lack of tolerance among various nationalities living in the Federal Republic. It has been reported that there are more and more cases of people being abused and maltreated by neighbours because of their ethnic origins or their anti-nationalistic opinions.

83. It has also been reported that a significant number of refugees from Bosnia and Herzegovina, many of them from mixed marriages and in particular draft-age men, are not able to regularize their refugee status and are living in constant fear of being sent back.

84. The Special Rapporteur continues to receive information about human rights violations in Kosovo. According to reliable international sources, the vast majority of the population live in constant fear. Allegedly, at night, paramilitary groups can be seen in the streets of Pristina. The Special Rapporteur has also received a detailed report from a Pristina-based non-governmental organization, the Council for the Defence of Human Rights and

Freedoms, containing names of victims of serious human rights violations, including victims of killings and torture. The document has been sent to the Government with a request for clarification, and the matter will receive the attention of the Special Rapporteur in forthcoming reports.

85. The recent arrest of some 130 former employees of the Ministry of Interior Affairs, all of Albanian descent, has contributed to the increase of tension in Kosovo. The Special Rapporteur will seek to obtain information as to the legal grounds for that action and will attempt to monitor the matter. According to information received, some of the arrested have been tortured or ill-treated and lawyers have occasionally been denied access to their clients.

86. Allegedly the police in Kosovo continue their harassment of independent trade union activists. It has been reported that on 20 November, a number of activists of the independent trade unions of Kosovo were arrested.

87. The Special Rapporteur continues to receive information about ongoing tensions between members of the local Muslim community and authorities in the region of Sandzak. It is reported that house raids in connection with so-called arms searches continue. On 26 and 27 November 1994, police reportedly raided and looted private businesses in the town of Novi Pazar. It is reported that goods were loaded on trucks and carried away. Allegedly, shop owners were harassed and ill-treated. The letters of the Special Rapporteur to the Federal Government, referred to in paragraph 194 of the 4 November 1994 report, concerning alleged human rights violations in that region have still not been answered.

88. Independent trade union activists in Serbia point out that in that country trade union freedoms and rights are being restricted by labour and social legislation and the persistent failure to enact the new law on trade unions. The Government Rules of Registration of Trade Unions which favour the so-called "majority trade union" (which is known to be under the control of the Government and the ruling party) are still in force.

89. The Special Rapporteur has been informed that steps have recently been taken to restrict the activities and influence of the Serbian independent trade union confederation "Nezavisnost". It is alleged that, in early November, the Republican Serbian Government, the Chamber of Commerce and the Council of Trade Union Federations of Serbia amended the country's General Collective Agreement regulating a range of employer-employee and trade union activities. It is claimed that the alleged changes are in violation of, inter alia, International Labour Organization (ILO) Conventions 87 and 98, and are generally prejudicial to the operation of free trade unions. In a letter of 25 November 1994, the Special Rapporteur requested the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to advise him of the nature and effect of the changes. To date the Special Rapporteur has received no answer.

90. The Special Rapporteur has obtained information about legal action undertaken by the Government against the daily newspaper Borba. Various international and local sources believe that the action, regardless of its legal justification, should be considered as an attempt to interfere with the editorial policy of the paper and, therefore, that it constitutes a serious

threat to the freedom of the media in the Federal Republic of Yugoslavia (Serbia and Montenegro). On 22 November 1994 the Special Rapporteur wrote to the Government for its views on the matter. No reply has as yet been received.

91. In his 4 November 1994 report (para. 171) the Special Rapporteur referred to the case of Dr. Vladimir Erceg who has been allegedly subjected to discriminatory treatment based on his ethnic origin. The Special Rapporteur asked the Government to advise him of the grounds on which the decisions to evict and dismiss Dr. Erceg were made. In a reply dated 8 November 1994, the Government informed the Special Rapporteur that "in the case of Dr. Erceg one could in no way refer to discrimination on ethnic grounds". As evidence of this, Dr. Erceg's letter to Mrs. Margit Savovic, Federal Minister of Human Rights, was quoted as follows: "Notwithstanding the fact that it can be assumed that discrimination can be an expression of a nationalistic or chauvinistic attitude in the election of teachers, I am convinced that this is primarily a criminal act." According to the Government, in selecting teachers at the Teachers College the legal procedure has been fully complied with. It also stated that the "normal legal procedure is under way with the competent State bodies". The Special Rapporteur acknowledges these views of the Government but, nevertheless, notes that Dr. Erceg states in his letter to the Special Rapporteur that he has been discriminated against because of his ethnic origin. His opinion is shared by certain local non-governmental organizations, and the matter continues to be of concern for the Special Rapporteur.

92. The Special Rapporteur has recently received information concerning the situation of the Bulgarian minority in Serbia. In this regard it may be noted that the circumstances of this minority group had not previously been drawn to the attention of the Special Rapporteur, and it had appeared that ethnic Bulgarians did not have grounds for complaint. However, various sources now indicate that the Bulgarian minority is subject to harassment. The Special Rapporteur believes it to be apposite to draw attention to the matter in the present report.

93. It has been reported that the use of Bulgarian as a language of school instruction has been abolished at all levels of education, even in areas with a high concentration of ethnic Bulgarian residents.

94. It is alleged that local authorities frequently confiscate and otherwise hinder distribution of Bulgarian newspapers. It has also been reported that the cable television station in Dimitrovgrad which carried Channel 1 of Bulgarian National Television has been suppressed by the authorities.

95. The Special Rapporteur has received information that constant pressure is exerted by the authorities on the organization of ethnic Bulgarians, the Democratic Union of Bulgarians in Yugoslavia. Members are reportedly subject to dismissals, threats of dismissals, illegal police detentions, house searches, illegal confiscation of property, police brutality, arbitrary prosecution and other forms of governmental harassment. Earlier in 1994 the local authorities in Bosilegrad allegedly took steps to have the Union's activities banned. In one instance, it is alleged that a Union activist and school inspector, following a trip with some students to Bulgaria, was dismissed from his post and

transferred to a village school. It was reported that this man was also subjected to threats from the local police chief.

96. The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), in a letter to the Secretary-General of the United Nations dated 11 November 1994, denied that it perpetrates or condones violations of democratic, religious, educational, cultural or freedom of expression rights of ethnic Bulgarians resident in its territories. Indeed, in another document (A/C.3/49/10, annex, appendix) dated 24 October 1994, the Federal Government indicated that "all national minorities in the Federal Republic of Yugoslavia enjoy equal rights irrespective of number or size. The case of the Bulgarian national minority presented below is illustrative of the overall minority rights situation in the Federal Republic of Yugoslavia". The Government further indicated that Bulgarian was taught in the municipalities inhabited by Bulgarians. It also reported that in organizations of Yugoslav citizens, members of the Bulgarian minority were guaranteed democratic rights and opportunities equal to those of other Yugoslav citizens, and they freely exercised those rights without any restrictions.

97. With regard to the above-mentioned problem, the Special Rapporteur points out that he constantly receives complaints from representatives of various minorities living in the territory of the Federal Republic. While the Government indicates that the legal and formal status of those nationalities is compatible with all relevant international standards, it nevertheless seems that their actual situation is cause for concern.

C. Conclusions and recommendations

98. In his 4 November 1994 report, the Special Rapporteur, inter alia, recommended:

(a) That the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) undertake immediate measures in order to improve discipline in the country's police forces and to prevent cases of police abuse;

(b) That the Government undertake measures to prevent cases of evictions and dismissals that might be of a discriminatory nature;

(c) That the Government undertake measures to put an end to the police abuse and violent house searches in Kosovo and Sandzak and to ensure that persons detained or under investigation were not subjected to ill-treatment or torture.

99. The Special Rapporteur also urged the Government to reconsider its refusal to allow international human rights monitors to conduct missions to the territories of the Federal Republic of Yugoslavia (Serbia and Montenegro) and its refusal to permit the opening of a field office of the Centre for Human Rights on its territory.

100. With regard to the additional information presented in the present report the Special Rapporteur recommends:

(a) That the Government take steps to remove legal and other obstacles preventing the development of a free trade union movement;

(b) That the Government undertake measures to respect fully the rights of ethnic, religious or linguistic minorities in accordance with its obligations under article 27 of the International Covenant on Civil and Political Rights and relevant provisions of the International Convention on the Elimination of All Forms of Racial Discrimination;

(c) That the freedom of the media be fully respected;

(d) That in an effort to resolve the cases of missing persons the Government cooperate with the expert designated by the Working Group on Enforced or Involuntary Disappearances in accordance with paragraph 24 of Commission on Human Rights resolution 1994/72.

V. THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

A. Introductory remarks

101. Pursuant to paragraph 33 of Commission on Human Rights resolution 1994/72, the Special Rapporteur continued to monitor developments regarding the human rights situation in the former Yugoslav Republic of Macedonia (hereafter referred to as the Republic), which he visited from 27 to 30 July 1994. The following is an update of the 4 November report. The additional information has been gathered mainly by the field staff based in Skopje.

102. In his 4 November 1994 report, the Special Rapporteur drew attention to the following issues: right to a fair trial (paras. 207-210); right not to be subjected to torture (paras. 211 and 212); right to freedom from arbitrary arrest (paras. 213 and 214); right to freedom of opinion and expression (paras. 215-219); rights of national or ethnic, religious and linguistic minorities (paras. 220-224); right to an adequate standard of living (paras. 225 and 226); role of non-governmental organizations (paras. 227-229); situation of refugees (paras. 230 and 231); and conduct of the census and elections (paras. 232-237).

B. Recent developments

103. A group of ethnic Albanian intellectuals has requested the opening of a university in their native language. In response, the Government has announced that the initiative complies neither with the Constitution nor with the law on higher education currently in force, and is therefore unconstitutional and illegal. The Ministry of the Interior has consequently proceeded to call all those involved in the initiative for "informative talks" although no formal charges have reportedly been made so far.

104. Although the aim of the request was the establishment of a public university, it should nevertheless be noted that, according to article 45 of the Constitution of the Republic, "citizens have the right to establish private

institutes at all levels of education ... under conditions determined by the law". There would appear to exist an inconsistency between the Constitution and the Law on Streamed Education of the Socialist Republic of Macedonia, which is still in force and determines, inter alia, the conditions for the opening of a university; it does not provide for the creation of a higher education institute by private initiative.

105. Ethnic Albanian students of the Pedagogic Academy also complain that, except for the courses on teaching methodology, all subjects are taught in Macedonian. They are currently requesting that the courses be given in Albanian. The Government reportedly expressed a favourable opinion on this issue in June.

106. The attention of the Special Rapporteur has again been drawn to the latest developments regarding the difficulties faced by the Serbian population in the Republic in registering its religious community. Its request was denied again on the same grounds: incomplete documentation attached to the request and incitement to religious or political intolerance and public disorder. The Serbian population is currently awaiting the decision of a fresh judicial appeal.

107. In his 4 November 1994 report, the Special Rapporteur mentioned that a census was held between 21 June and 5 July in order to determine the total population legally resident in the Republic, following a recommendation of the International Conference on the Former Yugoslavia. The entire process was supervised by the Expert Group set up by the Council of Europe which considered that it had been conducted in a satisfactory manner and that its results were reliable. According to the first official results, the Republic has a total population of 1,936,877 inhabitants, 66.5 per cent of whom are ethnic Macedonians, 22.9 per cent Albanians, 4.0 per cent Turks, 2.3 per cent Romas, 2.0 Serbs and 0.4 Vlachs.

108. The Special Rapporteur also noted that the first round of the presidential and parliamentary elections had taken place in the whole territory of the Republic on 16 October in a fairly peaceful atmosphere. He was subsequently informed that the entire process was completed on 13 November, since elections had to be repeated in some electoral units due to reported irregularities. The existence of some inconsistencies between the Constitution and the relevant laws has also been reported.

C. Conclusions and recommendations

109. In his 4 November 1994 report, the Special Rapporteur drew attention, inter alia, to the following points:

(a) The negative impact on the human rights situation of the delay in the enactment and implementation of some of the basic laws related to the juridical structure of the State;

(b) The reported limited enjoyment of the right to a fair trial and the persistence of cases of excessive use of force by the police;

(c) The importance of non-governmental organizations as an indispensable source of information regarding the human rights situation and the efforts of the Government in that field;

(d) The negative influence of the economic situation on the social stability of the country, owing, inter alia, to the losses connected with the imposition of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) and to the Greek embargo.

110. With regard to the additional information presented in the present report the Special Rapporteur points out that:

(a) While acknowledging the efforts made by the Government to promote and respect the rights of ethnic and linguistic minorities, the Special Rapporteur urges the Government to give favourable consideration to the initiative aiming at the promotion of the educational system at the university level;

(b) The Serbian population living in the Republic should not be prevented from enjoying, in accordance with the law, services of the religion of their choice;

(c) The international community should offer its economic assistance in order to prevent the destabilization of social relations owing to the deterioration in the implementation of economic and social rights.

VI. PROBLEM OF DISAPPEARANCES

111. Since the beginning of his mandate, the Special Rapporteur has attached special importance to the problem of disappearances and has raised his concerns in this regard in several of his reports (E/CN.4/1992/S-1/9, para. 67; E/CN.4/1993/50; E/CN.4/1994/110).

112. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/7 of 23 February 1993 in which it, inter alia, requested the Special Rapporteur, in consultation with the Working Group on Enforced or Involuntary Disappearances and ICRC, to develop proposals for a mechanism to address the subject of disappearances in the former Yugoslavia (para. 33).

113. Accordingly, a member of the Working Group, Mr. Toine van Dongen, conducted a mission to the region at the request of the Special Rapporteur in August 1993 in order to study the issue and determine which mechanism might be proposed with a view to elucidating the fate and whereabouts of the missing persons. The report of the mission (E/CN.4/1994/26/Add.1), submitted to the Commission at its fiftieth session, included a detailed proposal for a mechanism called "special process".

114. Also at its fiftieth session, in resolution 1994/72 (para. 24), the Commission on Human Rights requested the Working Group, represented by one of its members, to cooperate as appropriate with the Special Rapporteur in dealing with this issue. The Chairman of the Working Group designated Mr. Manfred Nowak as its expert representative.

115. In order to implement the resolution in the most efficient manner, and taking into account the strictly humanitarian and non-accusatory nature of the mechanism, it was agreed that the expert would hold meetings with the relatives of the missing persons, as well as with all governmental, intergovernmental and non-governmental organizations concerned. The role of the Special Rapporteur has so far been limited to providing material and logistical support through the activities of the field officers assisting him in carrying out his mandate in the former Yugoslavia.

116. In the former Yugoslavia two major patterns of missing persons can be distinguished. In Croatia, most of the disappearances occurred in summer and autumn 1991. Since the conclusion of the armed conflict, the situation of many missing persons has been clarified. There remain, however, more than 2,700 reports of missing persons whose fate has still to be elucidated. The Special Rapporteur suggests that the services of the expert should be used by all interested parties in order to solve the problem of disappearances.

117. In Bosnia and Herzegovina the wave of disappearances which began soon after the initiation of the armed conflict in the spring of 1992 has continued with varied degrees of intensity and it is impossible to ascertain the total number of disappeared persons. The instability created by the conflict makes it all the more difficult for relatives to submit their reports on missing persons and to establish a channel of communication with the relevant authorities. In relation to this situation, the activities of the expert, in cooperation with ICRC, may be instrumental in bringing about a solution to the problem.

118. The activities of the expert aimed at tracing thousands of missing persons in the Republic of Croatia and the Republic of Bosnia and Herzegovina, including his visits to both countries in July 1994, are summarized in his report to the Commission (E/CN.4/1995/37). It is regrettable that the expert was not permitted to visit the Federal Republic of Yugoslavia (Serbia and Montenegro), as his visit would have established valuable channels for future communication.

VII. FIELD OPERATION

A. Introductory remarks

119. Since the issuance of his first report on 28 August 1992, the Special Rapporteur has consistently emphasized the importance of a professional field staff stationed in the territory of the former Yugoslavia for the satisfactory fulfilment of his mandate.

120. By its resolution 1993/7, the Commission on Human Rights requested the Secretary-General to provide for the appointment of field staff to assist the Special Rapporteur in his work in the former Yugoslavia. The establishment of a field operation was also endorsed by the General Assembly in its resolution 47/147 of 18 December 1992. In its resolution 49/196 of 23 December 1994, the Assembly urged the Secretary-General, within existing resources, to make all necessary resources available for the Special Rapporteur and in particular to provide him with adequate staff to ensure effective continuous monitoring in the areas of his mandate.

121. The current field operation, set up by the Centre for Human Rights in March 1993, has been functioning continuously ever since. It consists at present of three offices, operating by consent of the respective host Governments. The offices are in Zagreb (with four international and two local staff), Sarajevo (two international and one local staff) and Skopje (one international and one local staff). The Zagreb office covers the territory of the Republic of Croatia, including the UNPAs and those parts of Bosnia and Herzegovina which are more easily accessible from Zagreb, i.e., Bihac and Mostar. As noted elsewhere in the present report, the Special Rapporteur has been hampered in the fulfilment of his mandate by the refusals of the Federal Republic of Yugoslavia (Serbia and Montenegro), and the de facto authorities in Serb-controlled Bosnia and Herzegovina, to permit field office operations in territories under their control.

122. Much of the work of the professional staff consists in conducting on-site investigation and field missions to locations in various parts of the former Yugoslavia to gather pertinent human rights information first-hand. Visits to the field are especially helpful in maintaining high visibility for the work of the Special Rapporteur and in signalling to local authorities the prime importance of human rights concerns in the eyes of the international community. It also happens on occasion that on-site visits appear to result in the implementation of positive changes in human rights practices, and even in the remedying of specific violations. Field officers also maintain constant contact with intergovernmental organizations, non-governmental organizations, diplomats, government officials, the press and the public.

B. Bosnia and Herzegovina

123. Sarajevo-based field staff have established a wide range of contacts with governmental and non-governmental organizations throughout the territory of Bosnia and Herzegovina. They have recently established tentative channels of communication into Serb-controlled areas of Bosnia and Herzegovina. Two meetings with Bosnian Serb de facto officials of greater Sarajevo in Ilidza in the summer were followed by a meeting in November with officials of the self-proclaimed Serb Republic in Pale. The Special Rapporteur hopes that this initiative can be developed further in 1995.

124. In the Bihac pocket of Bosnia and Herzegovina, the mission's field staff had attained a substantial range of contacts both within and outside of the government territory prior to the region's collapse into intense fighting in late October 1994. These contacts included central government authorities, the police leadership, judges of the highest courts and representatives of minority groups. This, combined with the mission's access to officials of the self-proclaimed "autonomous province of western Bosnia" prior to August 1994, permitted close monitoring of human rights developments in the pocket.

125. Following the Special Rapporteur's visit to Mostar in July 1994, the field staff developed excellent lines of communication with top officials of the city's European Union administration, including the Administrator, Mr. Hans Koschnick, as well as with authorities on both sides of the divided city. A visit by two of the mission's human rights officers in November 1994

resulted in expressions of strong support by Administrator Koschnick and other officials for the establishment of a field office in the city in early 1995, contingent on an extension of the Special Rapporteur's mandate and adequate funding. In view of the strong human rights legal mechanisms provided for by the Constitution of the Federation of Bosnia and Herzegovina, and considering certain small but encouraging steps which have been taken by Bosnian and Croat authorities in respect of human rights concerns, the Special Rapporteur believes that a permanent field presence of the mission in Mostar would be a most valuable addition to the range of international organizations currently working in this important area.

126. During the period April-December 1994, 14 missions of different character and duration took place in Bosnia and Herzegovina. They covered the whole territory controlled by the Federation.

C. Croatia

127. In the Republic of Croatia, the Zagreb-based field staff through its numerous contacts with non-governmental organizations, its participation in relevant conferences and its exceptional access to top government officials, provided the Special Rapporteur with vital information, enabling him to make timely observations on the changing human rights situation. The views of the Special Rapporteur appeared regularly in the Croatian press, effectively making the mission one of the most prominent analytical organs concerning human rights issues in the Republic.

128. During the period April-December 1994 the field staff conducted 20 missions and visits covering the whole territory of the Republic of Croatia, including UNPAs. The field staff visited refugee centres and prisons, and occasionally observed trials.

D. The former Yugoslav Republic of Macedonia

129. The Skopje office undertook a wide range of activities, establishing very good contacts with various governmental authorities and non-governmental organizations. Several missions to different locations on the territory of the Republic have been organized. Through regular contacts with the media the views of the Special Rapporteur have been communicated to the population.

E. General

130. One element of the cooperative relationship the field staff has developed with other organizations has been its involvement in projects designed to promote awareness of human rights issues. Thus, human rights officers from the Zagreb field office participated in a workshop in December with civil affairs and civilian police officers from UNPROFOR, one result of which was an improvement in the flow of vital information between the two organizations. Similarly, field staff were prominent participants in human rights workshops organized by the Helsinki Citizens Assembly in Sarajevo in June, and by the

Croatian Helsinki Committee in Zagreb in December. The Skopje office organized a round-table meeting with representatives of a wide range of non-governmental organizations during the Special Rapporteur's mission in July 1994.

131. Field officers spent considerable time receiving individual complaints. All cases are carefully documented, and where appropriate reported to the Special Rapporteur. Subsequent inquiries are conducted as directed by the Special Rapporteur. The field officers also assist in the work of the expert designated by the Working Group on Enforced or Involuntary Disappearances.

132. Despite the evident benefits derived from having a field staff in the territory covered by his mandate, the Special Rapporteur has been alarmed by extreme difficulties the Centre for Human Rights has encountered recently in identifying funding sources for the continuation of the operation. To date, field activities have been largely funded by voluntary contributions from governmental and non-governmental sources. It seems preferable, as the Special Rapporteur expressed in his 4 November 1994 report, that the operation should be funded from the United Nations regular budget.

Notes

a/ Wherever the term "Bosnian Serb forces" or "Bosnian Serb de facto authorities" are used in this report, reference is being made, unless otherwise indicated, only to Bosnian Serbs who are in the military or civilian service of the de facto administration which has its political headquarters at Pale. In particular, no reference is intended, or to be implied, to any Bosnian Serbs who are loyal to the Republic of Bosnia and Herzegovina.

b/ Decree on Transferring the Property of the Yugoslav People's Army and the Federal Secretariat for People's Defence in the Territory of the Republic of Croatia in the Ownership of the Republic of Croatia.

Appendix

List of all periodic reports on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights

1.	E/CN.4/1992/S-1/9 (28 August 1992)	Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 14 of Commission resolution 1992/S-1/1 of 14 August 1992
2.	E/CN.4/1992/S-1/10 (27 October 1992)	Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 14 of Commission resolution 1992/S-1/1 of 14 August 1992
3.	A/47/666-S/24809 (17 November 1992)	Report on the situation of human rights in the territory of the former Yugoslavia prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 15 of Commission resolution 1992/S-1/1 and Economic and Social Council decision 1992/305
4.	E/CN.4/1993/50 (10 February 1993)	Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to Commission resolution 1992/S-1/1 of 14 August 1992
5.	E/CN.4/1994/3 (5 May 1993)	Periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993

6.	E/CN.4/1994/4 (19 May 1993)	Second periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993
7.	E/CN.4/1994/6 (26 August 1993)	Third periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993
8.	E/CN.4/1994/8 (6 September 1993)	Fourth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993 Mostar: the cause for concern
9.	E/CN.4/1994/47 (17 November 1993)	Fifth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993
10.	E/CN.4/1994/110 (21 February 1994)	Sixth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993
11.	E/CN.4/1995/4 (10 June 1994)	Seventh periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993 Situation in Gorazde

12.	E/CN.4/1995/10 (4 August 1994)	Eighth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 37 of Commission resolution 1994/72 of 9 March 1994
13.	A/49/641-S/1994/1252 (4 November 1994)	Ninth periodic report on the situation of human rights in the territory of the former Yugoslavia, submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 37 of Commission resolution 1994/72 of 9 March 1994 and Economic and Social Council decision 1994/262 of 22 July 1994
14.	E/CN.4/1995/54 (13 December 1994)	Special report on the media Report of the Special Rapporteur submitted pursuant to Commission resolution 1994/72